



STATE OF DELAWARE
DEPARTMENT OF TECHNOLOGY AND INFORMATION
801 Silver Lake Blvd.
Dover, Delaware 19904

Doc Ref Number:		Revision Number: 7
Document Type:	Enterprise Policy	Page: 1 of 6
Policy Title:	Disclosure Of Individual User e-Resource Records	

Synopsis:	Users of the State's Communications and Computing resources can expect that their transactions are treated confidentially because DTI does not monitor e-mail transactions. However, e-mail messages, web access, mainframe and server access are all written records that could be subject to review with just cause. This policy provides a controlled process for obtaining access to individual e-resource records.
Authority:	Title 29, Delaware Code, §9004C - General powers, duties and functions of the Department of Technology and Information. "2) Implement statewide and interagency technology solutions, policies, standards and guidelines as recommended by the Technology Investment Council on an ongoing basis and the CIO, including, but not limited to, statewide technology and information architectures, statewide information technology plans, development life cycle methodologies, transport facilities, communications protocols, data and information sharing considerations, the technique of obtaining grants involving the State's informational resources and the overall coordination of information technology efforts undertaken by and between the various State agencies."
Applicability:	<p>This Policy is applicable to all users of the State of Delaware communications and computing resources. DTI is an Executive Branch Agency and has no authority over the customers in Legislative and Judicial Branches, as well as School Districts, and other Federal and Local Government entities that use these resources. However, all users, including these entities, must agree to abide by all policies, standards promulgated by DTI as a condition of access and continued use of these resources.</p> <p>** noted exception: As it pertains to email sent from a State, Legislative Hall email account, the following epilogue restrictions will be applied.</p> <p><i>HOUSE BILL NO. 45 Section 93. Notwithstanding any provisions of the Delaware Code to the contrary, the Delaware Department of Technology and Information is hereby prohibited from accessing or providing a legislator's e-mails or phone calls upon the request of another state department or agency, or branch of state government, except pursuant to the consent of the legislator, an Attorney General subpoena or a search warrant or other court order.</i></p>





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Effective Date:	March 22, 2005	Expiration Date:	None
POC for Changes:	Jason Clarke, Chief Operating Officer		
Approval By:	James Collins, Chief Information Officer		
Approved On:	1/6/2010		

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I. Policy

1. This policy provides a controlled process for obtaining access to individual e-resource records.
2. The primary responsibilities of the Department of Technology and Information is neither investigative nor disciplinary; however, if in the normal course of business DTI finds that the State's resources and privileges are abused or otherwise threatened, the staff will take appropriate steps.
3. 29 Delaware Code §502(a) defines the use of these e-resources as "public records." The state, through its "Acceptable Use Policy", makes it perfectly clear that any use of these e-resources are public records with no guarantee of privacy.
4. In order to comply with the Delaware Public Records Law (29 Delaware Code §501-526), DTI makes and retains copies of these transactions for the appropriate retention



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schedules. State e-mail is retained for a period of 12 months. At a minimum, we keep Internet access logs and inbound and outbound telephone call history for Enterprise voice customers for a period of 3 months. Users should be aware that electronic data, software, and communications files are archived. Items that were deleted may be preserved and retrieved if necessary.

- DTI will cooperate with any agency/organization, as users of these resources, should they have a need to have access to these records in cases where the agency/organization needs to comply with Freedom of Information Act, to comply with an Audit, to comply with a Court Order, or for non-consensual access of individual records to meet legitimate operational or management purposes. *Please see exception under the **Applicability** section of this policy*
- Only Electronic Access Authorizing Officials (see definitions) may request access and forwarding of electronic communication records. An alternative, higher-level permission will be obtained for individuals with a direct reporting relationship to an authorizing official.
- Such requests will be in writing and should be made only (a) when required by and consistent with law, (b) when there is substantiated reason to believe that violations of policy or law have taken place, or (c) when required to meet time-dependent, critical operational needs. Written requests must be submitted using the "Records Request" form included in the appendix.

Note: Subpoena's - If the DTI is compelled, under law, to disclose, copy, or transmit any agency information, the DTI shall, prior to making such disclosure, reproduction, or transmittal, notify the agency of the intended action. In such situations, unless notice to the agency is precluded by the terms of the subpoena or the request, or unless the requesting Court or agency will provide direct notice to the agency of the subpoena or the request for production, the DTI shall inform the agency of the receipt of the subpoena or the request for production.

II. Definitions

- Public Record** - 29 Delaware Code §502 (7) defines a "public record" as "any document, book, photographic image, electronic data recording, paper, sound recording or other material regardless of physical form or characteristics, including electronic records created or maintained in electronic information systems, made, used, produced, composed, drafted or otherwise compiled or collected or received in connection with the transaction of public business or in any way related to public purposes by any officer or employee of this State or any political subdivision thereof."



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Because email messages and website source files meet the definition of a record as they are "made or received pursuant to the law or ordinance in connection with the transaction of public business." all provisions of the Delaware Public Records Law (29 Delaware Code §501-526) apply.

2. **FOIA** - Email messages (unless specifically prohibited by law) are subject to provisions of the Delaware Freedom of Information Act (FOIA) found in 29 Delaware Code §10001-10005 and the requirement of 29 Delaware Code §504 that public officials and employees "adequately document the transaction of public business" and "retain and adequately protect all public records in their custody."
3. **Delaware Public Records Law (29 Delaware Code §501-526)** DTI follows the Delaware Public Records Law's requirements for records retention and disposition schedules, and uses the procedures of the Delaware Public Archives (DPA) for authorizing records disposition.
4. **e-Resource Records** – records of usage of all state communications and computing systems.
5. **Acceptable Use Policy** – This policy provides guidelines for the appropriate use of the state's communications and computing systems. "State communications and computer systems, including, but not limited to, computer networks, data files, e-mail and voice mail, may be monitored and/or accessed by the State to ensure the integrity of the technology, protect against fraud and abuse, detect unauthorized access or use, and for other business purposes. Although the Department of Technology and Information (DTI) does not randomly monitor message or network transactions, DTI may without notification or approval, monitor, access and review any and all communications originating from the State of Delaware or delivered to the State of Delaware – employees should have no expectation of privacy in regard to use of these services. This is in accordance with 19 Del. C. chapter 7. "
6. **Electronic Access Authorizing Official** – The Agency /Organization head or their designee. Substitutes would require a letter on file in DTI.
 - Cabinet Secretaries –Executive Branch
 - Controller –Legislative Branch
 - Chief Justice –Justice Branch
 - School Superintendents (users of the state education network)
 - Federal and Local Government Users –These would require signatures from the highest ranking member of the organization.
7. **Requestor** - Select individuals within the requesting organization who would ensure their organization follows this policy and associated processes when requesting





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information. In most cases it will be the organization's Information Resource Manager (IRM), or Director Level and above who will coordinate this request. In all cases the Requestor is expected to have the support of the organization's Authorizing Official before initiating this request.

III. Development and Revision History

Initial version established March 22, 2005

Second version established March 7, 2008

Third version established January 6, 2010

Fourth version established April 25, 2012

Fifth version established April 8, 2013

Sixth version established August 13, 2013

Seventh version established 2/18/2015

V. Approval Signature Block

Name & Title: James Collins Chief Information Officer	Date 2/18/2015

VI. Listing of Appendices

Appendix 1 - [Acceptable Use Policy](#)

Appendix 2 – Procedure to request disclosure of individual user e-resource records.



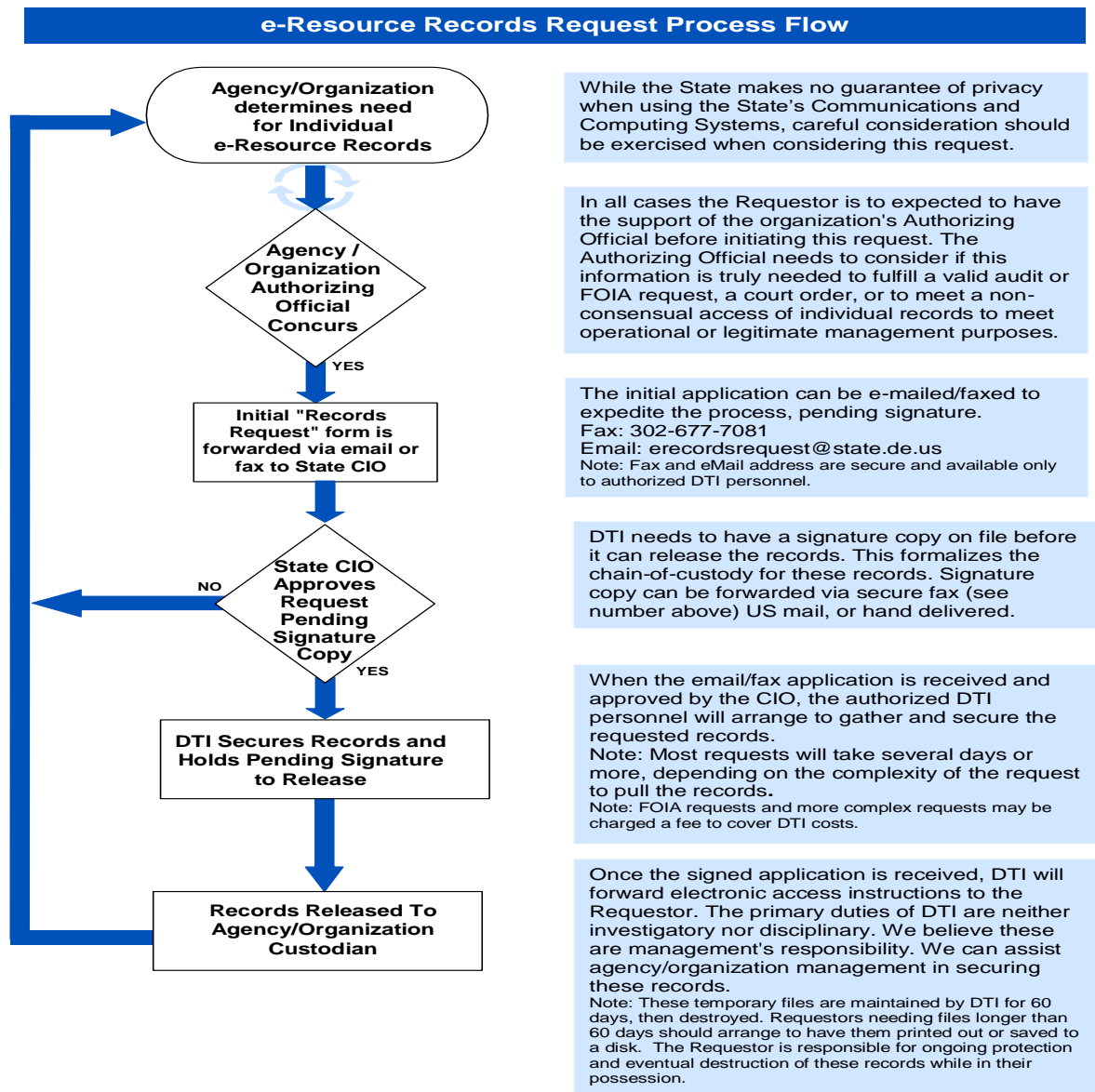
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Appendix 3 – [Application Form](#) to disclose individual users e-resource records.



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